

STATE OF CALIFORNIA

AGRICULTURAL LABOR RELATIONS BOARD

SAN JOAQUIN TOMATO	)	Case No.	93-CE-38-VI
GROWERS, INC.,	)		(20 ALRB No.13)
	)		(38 ALRB No. 4)
	)		(38 ALRB No.12)
Respondent,	)		(39 ALRB No. 14)
)		
and	)	ORDER GRANTING	
	)	RESPONDENT'S MOTION FOR	
	)	RECONSIDERATION	
)		
UNITED FARM WORKERS OF	)	Admin. Order	2013-39
AMERICA,)		
)		
)		
Charging Party.)		
)		

On September 26, 2013, Respondent, San Joaquin Tomato Growers, Inc. filed a motion for reconsideration of the Board's September 13, 2013 Decision and Order on the makewhole specification in the above-captioned matter, *San Joaquin Tomato Growers, Inc.* (2013) 39 ALRB No. 14.

Respondent points out that there is a typographical error on page 9 of the Decision and Order, namely that the Order refers to a makewhole period July 12, 1994 to September 8, 1994. Throughout the Board's Decision, the makewhole period is designated as the period July 12, 1993 to September 8, 1994. The makewhole period referred to on page 9 should also be July 12, 1993 to September 8, 1994; therefore, the Board will issue an erratum correcting the typographical error.

In Respondent's answer to the third revised makewhole specification, Respondent argued that the specification was not accurate because it had failed to identify Federal and State withholding amounts. The Board responded on page 8 of its September 13, 2013 Decision and Order that:

It is not necessary to calculate tax withholdings and deductions at this point in the process. When a worker is awarded his or her makewhole amount, Respondent will be responsible for determining proper tax withholding and deductions and for submitting proper tax payments and reports to tax authorities as well as for providing tax reports to that individual to use in filing his/her income tax returns.

Respondent asks the Board to reconsider the statement above.

Respondent points out in its motion for reconsideration that the Board's previous orders direct the entire makewhole principal be collected from Respondent, and when employees are located during the two year period following payment of the principal interest on the award would be calculated and collected from Respondent. Respondent argues that it would be a "physical impossibility" for Respondent to withhold State and Federal withholdings and deductions for those employees who are located because the entire makewhole principal would have already been paid to the ALRB.

PLEASE TAKE NOTICE that Respondent's motion for reconsideration is GRANTED in order for the Board to further consider the issue of whether the makewhole specification should take into account tax withholdings and deductions at this point in the process. The Board's September 13, 2013 Decision and Order *San Joaquin Tomato Growers, Inc.* (2013) 39 ALRB No. 14 is therefore not the Board's

final Decision and Order in the above-captioned matter. The Board will issue a final Decision and Order in this matter after it has fully considered Respondent's motion.

By Direction of the Board.

Dated: October 4, 2013

J. ANTONIO BARBOSA
Executive Secretary, ALRB